

EXHIBIT C

1
2 UNITED STATES DISTRICT COURT
3 SOUTHER DISTRICT OF NEW YORK

4 -----X

5 RÖBYNN EUROPE,

6 Plaintiffs,

7 - against -

8 EQUINOX HOLDINGS, INC. d/b/a
9 EQUINOX FITNESS CLUB, EQUINOX EAST
10 92nd STREET, INC., JOSE TAVERAS,
individually, CHRISTOPHER MALTMAN,
individually, and ADAM GECHT,
individually,

11 Defendants.

12 CASE NO.: 20-CV-07787 (JGK)

13 -----X

14
15 ZOOM VIDEOCONFERENCE

16
17 July 12, 2021

18 10:09 a.m.

19 DEPOSITION of Plaintiff, RÖBYNN
20 EUROPE, before Melissa Gilmore, a Stenographic
21 Reporter and Notary Public of the State of New
22 York.

23
24
25 Job No. NY4700999

1 EUROPE

2 and controlled the company's finances.

3 Q. Were you issued any type of written
4 discipline by CLAY Health Club prior to your
5 termination?

6 A. No.

7 Q. Were you issued any written
8 discipline for any of the other positions
9 you've described thus far?

10 A. Only at Equinox.

11 Q. Prior to coming to Equinox, were you
12 ever disciplined by any prior employer for time
13 and attendance issues?

14 MS. LIEDERMAN: Objection.

15 You can answer.

16 A. Not that I can recall.

17 Q. Can you recall any prior supervisor
18 at a prior place of employment ever telling you
19 that you needed to improve your time and
20 attendance?

21 A. Not that I can recall.

22 Q. Do you recall ever struggling to get
23 to work on time at any of your prior places of
24 employment before coming to Equinox?

25 A. Yes.

1 EUROPE

2 Q. Where was that?

3 A. At New York Health & Racquet Club.

4 Q. Was that during the first time you
5 worked there, the second time, or both?

6 A. Only when I took on the management
7 position.

8 Q. And what do you recall struggling
9 with specifically?

10 A. Typically the day began quite early,
11 which at the time I was living very far away, I
12 believe I was living in Coney Island, so it was
13 quite a trek.

14 Q. And what happened? I mean, did your
15 supervisor approach you about your lateness or
16 was it just something you recall happening?

17 MS. LIEDERMAN: Objection.

18 You can answer.

19 A. I would not say that it was lateness
20 because we didn't have a defined schedule at
21 New York Health & Racquet Club at that time,
22 but she did ask if I could come in earlier in
23 the day and I came in earlier in the day.

24 Q. For all the other positions then
25 that you've described at other employers before

1 EUROPE

2 Equinox, is it your testimony then that you
3 left all of these jobs voluntarily?

4 A. Yes, as far as I recall. It's been
5 quite some time with the exception of the
6 places that closed.

7 Q. That was the Gym in Chelsea?

8 A. It was in Gramercy and David Barton
9 Gym.

10 Q. Prior to coming to work at Equinox,
11 were you ever a member at Equinox, a client?

12 A. No.

13 Before you ask your next question,
14 I'm just going to turn up my AC. It's a little
15 warm.

16 Q. No problem.

17 A. Okay. Thank you.

18 Q. No problem.

19 So when did you first apply for
20 employment with Equinox?

21 A. Oh, good question. I believe it was
22 in the late summer of 2018.

23 Q. How did you know about a job being
24 available at Equinox, if you did know?

25 A. I didn't know that a job was

1 EUROPE

2 And the second interview with Josh
3 and Adam took place at -- it might have been
4 either 92nd Street. It was certainly on the
5 Upper East Side.

6 Q. What position was it that you were
7 applying for in late summer 2018?

8 A. Personal training manager.

9 Q. And at some point in time were you
10 offered the position?

11 A. Yes.

12 Q. Who conveyed the offer to you?

13 A. Michael Caporusso.

14 Q. And at that time were you working
15 elsewhere when you were offered the position at
16 Equinox?

17 A. No.

18 Q. Is it fair to say your employment
19 with CLAY ended at some point after the time
20 you first applied to work with Equinox but
21 before the time you were offered a position at
22 Equinox?

23 A. Yes.

24 Q. Did you accept right way when you
25 were offered the position?

1 EUROPE

2 A. Yes.

3 Q. What location were you hired to work
4 at?

5 A. I was hired to be trained at
6 East 61st Street, but at that point I was not
7 told what location I would be ultimately
8 transferred to.

9 Q. And did you start work at East 61st
10 Street?

11 A. Again, I guess I was given a title,
12 but it was primarily training for the position.
13 I was given the title of fitness manager and I
14 assisted the personal training manager at that
15 location.

16 Q. When did you start the training at
17 East 61st Street?

18 A. I believe in November or October of
19 2018, but I'm not certain. It was about a
20 month before I was moved to East 92nd Street.

21 Q. So was that month all training,
22 orientation or were you actually working as a
23 fitness manager there?

24 A. It was a lot of role playing. A lot
25 of performing the duties that I would have to

1 EUROPE

2 A. No.

3 Q. Was there a plan all along after
4 your training was done for you to transfer to
5 another location?

6 MS. LIEDERMAN: Objection.

7 You can answer.

8 A. I don't know what the plan was. I
9 accepted the position and agreed to perform the
10 role that I was hired to perform until I could
11 be transferred to a personal training manager
12 position somewhere.

13 Q. Does the personal training manager
14 always supervise the fitness manager?

15 A. If the fitness manager is in the
16 role, yes.

17 Q. So how did it come about that you
18 transferred from East 61st Street to East 92nd
19 Street?

20 A. A couple of days before I was
21 transferred, I was told that I was being
22 transferred to East 92nd Street. I came to
23 East 92nd Street and met with the personal
24 training manager who was already there who was
25 being transferred to the Williamsburg club in

1 EUROPE

2 Brooklyn. And I spoke to Josh Harrison, and
3 then I believe it was within a couple of days I
4 was at East 92nd Street.

5 Q. Who was it that you told you that
6 you're going to be transferred?

7 A. I don't recall if it was Josh
8 Harrison or Michael Caporusso.

9 Q. And what were Josh and Michael's
10 positions at the time, if you know?

11 A. I don't remember. I'm sorry.

12 Q. Were they local managers at
13 East 61st Street or do they have oversight over
14 several different clubs?

15 A. Michael was a regional director, but
16 I'm not certain that's the exact title, but he
17 was a regional director, I believe it was for
18 the entire East Coast.

19 And Josh was -- I don't remember his
20 title, but I believe he was a director for the
21 entire Upper East Side.

22 Q. When was the transfer effective?

23 A. In December of 2018, as I recall. I
24 believe it was just before Christmas.

25 Q. Who was your supervisor after the

1 EUROPE

2 transfer?

3 A. Jose Taveras was my direct
4 supervisor. So he was the person I was
5 expected to report to on a day-to-day basis.
6 And Josh Harrison was -- you know, looking
7 back, it's hard to really know what the chain
8 of command was, but Josh Harrison was also
9 someone who I could go to about my position and
10 how to perform it.

11 Q. What was Jose Taveras' position?

12 A. General manager.

13 Q. And that was general manager of
14 East 92nd Street; is that correct?

15 A. Yes.

16 Q. And just to confirm, what was your
17 position as of the time of the transfer to
18 East 92nd Street?

19 A. Personal training manager.

20 Q. And do you recall what your salary
21 was at that time?

22 A. I do not recall. It may have been
23 around 65,000, but I'm not a hundred percent
24 certain on that.

25 Q. During the time you were working at

1 EUROPE

2 not certain.

3 Q. And what was Mr. Gecht's position at
4 the time, if you know?

5 A. I don't recall his title. He was
6 also a regional manager or director, however
7 you want to describe it, I believe of the Upper
8 East Side.

9 Q. As personal training manager at
10 East 92nd Street -- actually, withdrawn.

11 Were there other personal training
12 managers at East 92nd Street or was it just you
13 at the time you started to work there in
14 December 2018?

15 A. It was just me.

16 Q. And did you have direct reports?

17 A. Chris Maltman reported to me and the
18 training staff, for the most part, reported to
19 Chris or me.

20 Q. What was Chris Maltman's position at
21 the time?

22 A. Fitness manager.

23 Q. Do you know how long he had been
24 working as fitness manager at East 92nd Street
25 at the time you started?

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2 Q. So going back to East 92nd Street,
3 when you started working there, how many people
4 were part of the training staff that you said
5 reported to either Chris or to you?

6 A. It may have been about 15, but I
7 don't recall the exact number.

8 Q. And were their titles just personal
9 trainers or were there others who were part of
10 that group as well?

11 A. Their titles were just personal
12 trainers.

13 Q. How was it determined who reported
14 to you versus who reported to Chris?

15 A. As the head of the department,
16 everyone reported to me ultimately. When
17 things needed to happen it was my
18 responsibility to make sure that those things
19 happened. So whether people were supposed to
20 report to Chris or not, it was ultimately my
21 department.

22 Q. Did you set Mr. Maltman's schedule?

23 A. No.

24 Q. What was your level of oversight
25 responsibility for Mr. Maltman?

1 EUROPE

2 me if you're able to see the exhibit that I'm
3 sharing and also -- okay. I see that you're
4 selecting the option to control, so you can
5 scroll through it hopefully.

6 A. Okay. I can scroll through.

7 Q. If you can just take a minute to
8 scroll through and see what's in this document
9 that has been marked as Defendants' Exhibit 1.

10 A. (Document review.) How far through
11 this would you like me to go?

12 Q. I defer to you as to how closely you
13 look. Maybe you can just scroll through kind
14 of the whole thing so you can see what's there.

15 A. (Document review.) Okay. I believe
16 I am somewhat familiar with this document.

17 Q. What do you recognize this document
18 to be?

19 A. The employee handbook.

20 Q. And did you receive the employee
21 handbook when you began working at Equinox?

22 A. Yes.

23 Q. Do you recall when you received the
24 employee handbook?

25 A. I believe I received it as soon as I

1 EUROPE

2 was hired.

3 Q. And did you read the document?

4 A. Yes.

5 Q. Do you recall if you had any
6 questions about it?

7 A. No.

8 Q. And if I could just refer you to the
9 last two pages of the exhibit, there is a
10 couple of electronic receipts there on that
11 page and the page before, referring to the
12 pages that are Bates D48, which is the
13 second-to-last page, and then D55, which is --
14 I'm sorry, D49, which is the second-to-last
15 page and then D55, which is the last page.

16 A. (Document review.)

17 Q. And do you recall electronically or
18 digitally signing these two receipts that are
19 the last two pages of the document here?

20 A. Yes.

21 Q. Do you recall who provided you with
22 the employee handbook when you started working
23 at Equinox?

24 A. No, I believe it was sent to me
25 automatically and electronically and I had to

1 EUROPE

2 click a link to download it, but I'm not
3 certain on that.

4 Q. Okay. And it looks like both of
5 these electronic receipts were signed on
6 November 19, 2018.

7 Is it correct that would be your
8 first day, your first week of employment at the
9 East 61st Street location?

10 A. I believe so, but I don't recall the
11 exact date that I was hired.

12 Q. Okay. But certainly that will be
13 the first month that you were working at
14 Equinox; is that correct?

15 A. Yes, absolutely.

16 Q. Ms. Europe, what was your
17 understanding of what you were supposed to do
18 if you believed that you were subjected to
19 discrimination?

20 A. I believe I was supposed to contact
21 people services.

22 Q. And when you say "people services,"
23 is that anyone specific that your referring to?

24 A. No, people services was Equinox's
25 name for human resources, as I recall. And I

1 EUROPE

2 believe I was most familiar with Stephanie
3 Herrmann, so I often contacted her directly,
4 but people services was just a department. So
5 if she wasn't available, there were certainly
6 other people.

7 Q. Who was Stephanie Herrmann?

8 A. She worked in people services.

9 Q. Do you recall what her title was?

10 A. I do not.

11 Q. What communications do you recall
12 having with Stephanie Herrmann?

13 A. We e-mailed on occasion and spoke on
14 the phone on occasion.

15 Q. Did you find her to be responsive
16 when you needed something from her?

17 A. Yes.

18 Q. If you could go back to the second
19 page of the policy -- or the second page of the
20 document, there's a policy that says,
21 Reasonable Accommodation for Disabilities.
22 This is Bates D39. One down from there.

23 A. Yes.

24 Q. There is a policy here, Reasonable
25 Accommodation for Disabilities.

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2 What was your understanding of what
3 you were supposed to do if you needed to
4 request some sort of an accommodation related
5 to disability?

6 A. To contact my direct supervisor or
7 people services to request the accommodation.

8 Q. And did you ever avail yourself of
9 that policy?

10 A. Yes.

11 Q. When was that?

12 A. I contacted people services in, I
13 believe it was May or June of 2019 to request
14 accommodations, yes.

15 Q. And was that Ms. Herrmann you
16 contacted or someone else?

17 A. Ms. Herrmann.

18 Q. And was Ms. Herrmann responsive?

19 A. Yes.

20 Q. Did Ms. Herrmann grant your request?

21 A. Yes.

22 Q. Was there ever any request for an
23 accommodation you requested of Equinox that was
24 not granted?

25 A. Not that I can recall from

1 EUROPE

2 Ms. Herrmann.

3 Q. Okay. We are going to get back to
4 that in a little more detail in a little while.

5 And are you aware of whether there
6 was an anti-retaliation policy at Equinox?

7 A. I was not aware of whether there was
8 an anti-retaliation policy, but I was aware
9 that it's not legal, so...

10 MR. SHILOH: What was that last
11 response? It's not what?

12 THE WITNESS: I was aware that
13 retaliation was not legal.

14 MR. SHILOH: Thank you.

15 Q. If you scroll a bit down further of
16 this page that we are looking at here, there is
17 a heading Unlawful Discrimination, Harassment
18 and Retaliation Policy, which begins on D39 --

19 A. Yes.

20 Q. -- and it continues for a few pages
21 thereafter until D42, it looks like.

22 Do you recall reading this policy
23 when you received the handbook?

24 A. Yes.

25 Q. And would you agree that at the

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2 bottom of the page you are on now, D40, there
3 is a section on retaliation, which is continued
4 on the top of the next page?

5 A. Yes.

6 Q. And what was your understanding of
7 what you're supposed to do if you believe you
8 were subjected to conduct that was in violation
9 of the anti-retaliation policy?

10 A. As I recall, the protocol would have
11 been to contact people services for nearly
12 anything of this nature.

13 Q. And if you just take a look at this
14 paragraph that's on the page we are looking at,
15 D41, that starts with, "The following steps
16 have been put into place to ensure the work
17 environment at Equinox is respectful,
18 professional and free of discrimination,
19 harassment and retaliation."

20 Does that refresh your recollection
21 at all about the different ways an employee
22 could report perceived discrimination,
23 harassment, or retaliation?

24 A. Yes.

25 Q. And what were the different ways?

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2 refers to if you make a complaint and have not
3 received a satisfactory response within five
4 business days to contact the corporate people
5 services executive immediately.

6 Other than Stephanie Herrmann, was
7 there ever anyone else you contacted at people
8 services to the best of your recollection?

9 A. No, sir.

10 Q. Were there ever any complaints you
11 made that you did not receive a satisfactory
12 response to?

13 A. Define "satisfactory."

14 Q. Were there ever any complaints that
15 you lodged that you did not believe your
16 complaint was being properly addressed?

17 A. By Stephanie, no.

18 Q. Were there ever complaints that you
19 raised with others that you believe were not
20 properly addressed?

21 A. Yes.

22 Q. And what were those?

23 A. I raised complaints with Jose about
24 the kind of support and guidance I was
25 receiving in the department and my ability to

1 EUROPE

2 work with and supervise Chris Maltman.

3 Q. And did you consider that to be a
4 complaint under this policy?

5 A. No, it was -- I mean, perhaps. I
6 was speaking to my supervisor, but I wouldn't
7 say that it was necessarily related to
8 retaliation or harassment. It was just
9 speaking to my supervisor about needing more
10 support.

11 Q. So would you agree you had
12 difficulty supervising Chris Maltman, but it
13 wasn't about harassment or discrimination or
14 retaliation?

15 MS. LIEDERMAN: Objection.

16 You can answer.

17 A. It was not about harassment,
18 discrimination or retaliation directed at me
19 personally.

20 Q. Do you believe that Mr. Maltman ever
21 engaged in conduct that was harassing,
22 discriminatory or retaliatory that was directed
23 towards you personally?

24 A. Toward me personally?

25 Q. Yes.

1 EUROPE

2 A. I do believe there were
3 inappropriate interactions usually concerning
4 others that made me uncomfortable.

5 Q. What interactions are you referring
6 to?

7 A. There was an interaction when he
8 asked me to walk to a nearby coffee shop
9 because he wanted to ask out one of the women
10 working at the coffee shop who was a very young
11 African-American woman and he asked if I would
12 wait outside the coffee shop for him so that it
13 wouldn't seem weird that he was still inside
14 speaking to her.

15 There were other times when
16 Mr. Maltman commented on the appearance of
17 members of the gym that made me quite
18 uncomfortable. There were things said to
19 members of my staff, specifically Sabrina
20 McGeary that I was alerted to that made me
21 uncomfortable. So these things weren't
22 directed at me personally, but they were
23 certainly things that I needed to go to people
24 services about.

25 Q. The first one you mentioned that had

1 EUROPE

2 A. I wouldn't say a tendency, but we
3 were permitted to take breaks. So if we both
4 wanted to go to the coffee shop, we would often
5 go together.

6 Q. Did you and Chris generally get
7 along?

8 A. Hmm. Chris and I had a pretty -- it
9 was a professional relationship where I
10 certainly would not say that we were friends,
11 but we interacted in a cordial way on an almost
12 daily basis.

13 Q. Uh-huh. Okay. So, I mean, you
14 could go or not go to the coffee shop with him,
15 correct? He couldn't force you to, would you
16 agree?

17 A. Yes.

18 Q. And, I mean, in fact, you were his
19 supervisor, correct?

20 A. Yes.

21 Q. So did you know that he wanted to go
22 to the coffee shop because he wanted to ask out
23 an employee there?

24 A. Not until we were on the walk to the
25 coffee shop.

1 EUROPE

2 Q. And what did he tell you during the
3 walk?

4 A. He told me that there was a girl who
5 worked at the coffee shop who he believed was
6 interested in him and that he wanted to go
7 speak to her because he knew that that day was
8 her last day.

9 Q. And did you find something
10 inappropriate about that?

11 A. When I saw the girl, yes.

12 Q. And what was that?

13 A. She was very young.

14 Q. Other than the fact that you found
15 her to appear very young, was there anything
16 you found inappropriate about this?

17 A. I also thought it was somewhat
18 inappropriate to ask a supervisor to come with
19 you to flirt with or hit on or ask out someone
20 who, you know, I mean, there was no reason to
21 invite me for that sort of interaction except
22 that he hoped that having another person,
23 possibly another black woman there would
24 validate that interaction.

25 Q. You testified before that you did

1 EUROPE

2 from time to time get coffee with him, correct?

3 A. Yes.

4 Q. So was there anything unusual about
5 the fact that he asked you to go get coffee
6 with him?

7 A. Not until we were on the walk to the
8 coffee shop.

9 Q. And did he tell you that he wanted
10 you to go because you were African American?

11 A. No, he said he wanted me to go so
12 that it wouldn't be awkward to speak to this
13 girl.

14 Q. And do you find anything unusual
15 about that?

16 A. About asking me to go with him so he
17 could speak to a woman?

18 Q. Yes.

19 A. Yes, Chris and I were not friends.
20 We were friendly, but we were not friends.
21 Going to get coffee and involving me in your
22 romantic pursuits are different.

23 Q. Did he make any reference to the
24 employee's race?

25 A. No.

1 EUROPE

2 Q. And how did he respond?

3 A. He objected to that assessment of
4 the situation.

5 Q. Anything further that you ever
6 discussed with him about this woman?

7 A. No, because as I recall, she was
8 hard to nail down for plans from the get-go.
9 So as far as I know, they never actually hung
10 out and he stopped speaking about her, but
11 obviously I'm not involved in Chris' personal
12 life.

13 Q. And in any of your discussions with
14 Mr. Maltman about this woman, was there ever
15 any reference to her race?

16 A. No.

17 Q. You mentioned that Mr. Maltman
18 commented on the appearance of members at the
19 gym; is that correct?

20 A. Yes.

21 Q. And what members are you referring
22 to?

23 A. Typically black female members, but
24 specifically one member named Janeen.

25 Q. What was the name?

1 EUROPE

2 anything he was receiving from his supervisor
3 that he should concerned about.

4 Q. Did you ever tell your supervisor
5 that you believed that Mr. Maltman was
6 inappropriately commenting on the appearance of
7 a member?

8 A. As I recall, no.

9 Q. Did you ever tell people services
10 that Mr. Maltman was commenting inappropriately
11 or what you believed to be inappropriate about
12 a member?

13 A. No.

14 Q. Any reason why not?

15 A. These comments were said to me
16 mostly not around other employees or other
17 members. So it seemed to be an interaction
18 that would take care of itself by me just
19 saying I didn't think it was cool. Also I feel
20 like at that time a pattern had not been made
21 apparent that Chris tended to say inappropriate
22 things.

23 Q. Were there any other members that
24 Chris commented on their appearance?

25 A. He also commented on the appearance

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1
2 comments that he made about members, you
3 referenced Sabrina McGeary. We are going to
4 get back to Sabrina in a couple minutes.

5 But other than those three, anything
6 else that you had in mind when you said that
7 you believed Mr. Maltman acted inappropriately?

8 A. I do believe there were other
9 inappropriate things that were not related to
10 comments about people's appearance, sexuality,
11 things of that sort.

12 Q. I'm sorry, you said were not related
13 to appearance or sexuality?

14 A. Yes, I believe that he was not
15 particularly respectful toward me as his
16 supervisor, and I do believe that there were
17 actions that undermined my role as the leader
18 of the department, but those are not things
19 related to harassment, discrimination, you
20 know...

21 Q. Okay. What was the issue with
22 Sabrina McGeary that you found to be
23 inappropriate?

24 A. On one occasion, he asserted that
25 she must be the sister of a front desk

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attendant who also happened to be a curly-haired, brown-skinned woman. They were not related.

And when I mentioned to him that it was inappropriate for him to suggest that they must be related simply because they were both brown-skinned women with curly hair, he asked me, so I'm not supposed to comment on someone's appearance if I think they look alike? And I told him, no, it was inappropriate. He should keep his thoughts to himself especially with regard to the staff.

So that was one incident.

I also took issue with Mr. Maltman asking Sabrina if she was autistic during a staff meeting in front of the staff. It was four or five. And I also learned from Sabrina that he had made comments about how good she looked in her leggings, which she was very uncomfortable with, and asked me at that time if I would be present for all of her meetings with Mr. Maltman because she didn't want to be alone in a room with him.

So those are the three that come to

1 EUROPE

2 mind immediately right now.

3 Q. Did you reprimand Mr. Maltman for
4 any of his comments that you perceived as
5 inappropriate toward Sabrina McGeary?

6 A. Again, I didn't have the power to
7 reprimand him at all, but I did reach out to
8 people services about these comments.

9 Q. And do you know if people services
10 took action?

11 A. At the time I did not know if people
12 services took action because it would have been
13 a human resources violation for them to tell me
14 any of those details, but now I am aware that
15 they did speak to him about it.

16 Q. When you say "now," what time period
17 are you referring to?

18 A. Now since discovery has happened
19 regarding this case.

20 Q. And how did you learn that they took
21 action, "they" being people services?

22 A. Since discovery has happened in this
23 case I was able to see the record of discussion
24 that he received.

25 Q. So as you sit here today, are you

1 EUROPE

2 aware of any comments or actions by Mr. Maltman
3 that you perceived to be inappropriate that
4 were escalated to people services that were not
5 acted on by people services?

6 A. Not that I am aware of at this
7 moment. If I think of something I will let you
8 know.

9 Q. Okay. Great. If we could just go
10 back to the document that had been marked as
11 Defendants' Exhibit 1 and I will try to share
12 my screen again the same way.

13 If you're able to see that,
14 Ms. Europe, and you are able to scroll down to
15 the page which is Bates D45. I believe it's
16 the eighth page of that PDF. Just passed it.

17 A. Yeah, this thing is hard to control.
18 (Document review.)

19 Q. So we are looking at the policy in
20 the employee handbook, which is titled
21 Attendance and Punctuality.

22 Do you recall reviewing this policy
23 when you received the handbook at or around the
24 start of your employment with Equinox?

25 A. Yes.

1 EUROPE

2 Q. And what did you understand this
3 policy to mean as far as, you know, being
4 punctual for work?

5 A. That I was required to alert someone
6 if I was going to be absent or late, you know,
7 that I might need a letter from a doctor if I
8 was going to be absent for several days. That
9 I would need to find someone to cover my shift,
10 if I couldn't cover the shift. And that
11 failing to work as I was scheduled would be
12 problematic and could lead to termination.

13 Q. And was it your understanding that
14 this policy applied to all employees in the
15 clubs including managers?

16 A. Yes.

17 Q. Just referring to the last page of
18 the policy, the one that starts with arriving
19 on time for your scheduled shift, what does it
20 say about if you are going to be running more
21 than ten minutes late?

22 A. It says, "If you expect to be more
23 than ten minutes late, call your manager
24 immediately so that someone will be able to
25 cover your duties until you arrive. Routinely

1 EUROPE

2 reporting to work late and failing to work your
3 scheduled hours are violations of Equinox
4 policy that can result in termination."

5 Q. Were there times during your
6 employment with Equinox where you were arriving
7 more than ten minutes late for work?

8 A. Yes.

9 Q. How many times did that happen?

10 A. I couldn't give you an exact number.

11 Q. More than five?

12 A. Yes.

13 Q. More than ten?

14 A. Yes.

15 Q. More than 50?

16 A. I don't know about more than 50, but
17 certainly more than 5 or 10.

18 Q. More than 25?

19 A. Yes.

20 Q. Okay. So your estimate, sitting
21 here today, would be somewhere between 25 and
22 50 times perhaps?

23 A. Sure.

24 Q. And did you have a practice of
25 calling your manager when that was happening?

1 EUROPE

2 A. Initially, no. And after I received
3 an ROD, I did usually text message or otherwise
4 contact my manager. Typically, it was from the
5 subway, so calling wasn't an option.

6 Q. When you say "typically," that means
7 sometimes you did not do that?

8 A. Yes.

9 Q. Did you struggle with getting to
10 work on time at Equinox?

11 A. Yes.

12 Q. And why was that?

13 A. A combination of the distance that I
14 lived from the club, the number of transfers on
15 the subway that were required to make it to the
16 club, and the fact that, even though Equinox
17 workdays are scheduled to be ten hours, I was
18 often there for significantly more than ten
19 hours. Sometimes 12 hours, sometimes 13 hours
20 and, you know, I would oversleep occasionally
21 because being at work for 13 hours is
22 exhausting.

23 Q. Would you agree that, as a manager,
24 it was your responsibility to stay there for
25 the workday, however long that wound up

1 EUROPE

2 Q. So there were instances when you
3 recommended to those above you or people
4 services that your direct reports be
5 disciplined because they had trouble coming to
6 work on time?

7 A. Yes.

8 Q. Given that it happened in excess of
9 25 times that you were more than ten minutes
10 late for work, would you agree that your
11 failure to arrive on time warranted discipline?

12 A. I would agree that anyone's failure
13 to arrive at work on time would warrant
14 discipline whether it was mine or other
15 employees.

16 Q. When were you first told -- or
17 withdrawn.

18 At some point in time did your
19 supervisor tell you that that you needed to
20 improve on your time and attendance, in
21 particular, arriving to work on time?

22 A. Yes. I received a record of
23 discussion.

24 Q. Prior to receiving a record of
25 discussion, was it ever informally raised with

1 EUROPE

2 you verbally?

3 A. Informally, yes.

4 Q. When was the first time that
5 happened?

6 A. I honestly don't recall.

7 Q. Was it during the first month you
8 were at the East 92nd Street club?

9 A. I don't believe so, but, again, I
10 don't recall.

11 Q. Well, you started in late
12 December 2018 at East 92nd Street, correct?

13 A. Yes.

14 Q. Do you recall if between late
15 December and mid -- late December 2018 and mid
16 February 2019 you were verbally counseled about
17 coming to work on time?

18 A. I don't recall. It's been many
19 years. It's possible.

20 Q. When -- or withdrawn.

21 Who was it that first brought to
22 your attention that you were struggling and
23 needed to improve on your punctuality?

24 A. Jose Taveras.

25 Q. And where were you when you had that

1 EUROPE

2 Q. Were there times when you were more
3 than two hours late?

4 A. I don't believe so.

5 Q. Were there times that you didn't
6 show up for work at all on days when you were
7 scheduled to be at work without prior notice?

8 A. Oh, certainly not, no.

9 Q. After that first conversation with
10 Jose, when was the next time that it was
11 brought to your attention that you were not
12 demonstrating sufficient punctuality?

13 A. When I received my first record of
14 discussion.

15 Q. And when was that?

16 A. I do not recall, but it was the day
17 that is on the ROD.

18 Q. Okay.

19 MR. ZOLDESSY: We are going to mark
20 this next one as Defendants' Exhibit 2.
21 It's a two-page document, Bates D10 and
22 D11, which I am sharing now on the screen
23 hopefully.

24 (Defendants' Exhibit 2, Record of
25 Discussion, Bates Stamped D000010 through

1 EUROPE

2 11, marked for identification.)

3 Q. Mr. Europe, if you can just let me
4 know if you are able to access the exhibit.

5 A. Yes.

6 Q. So does this refresh your
7 recollection of when you first received a
8 record of discussion about time and attendance?

9 A. Yes.

10 Q. And when was that?

11 A. April 15 according to this document.

12 Q. And do you recall receiving this
13 document on April 15 of 2019?

14 A. Yes.

15 Q. And was there anything in the
16 document that you believed to be incorrect or
17 inaccurate?

18 A. As the document is written, no, but
19 the reality is that Equinox managers were not
20 hourly employees. We did not punch in and out
21 of a time clock at any point. Hourly employees
22 did, but we did not. These times were based on
23 what time I checked into the club at the front
24 desk, which was a security measure exclusively.
25 Members also had to do it. We were expected to

1 EUROPE

2 do it every single time we walked into the
3 building whether we were arriving for work or
4 going out for lunch.

5 It often happens that the front desk
6 was swamped and sometimes we didn't check in.
7 So my only concern was that these times reflect
8 the time that I checked into the club with my
9 key tag and not necessarily the time that I
10 arrived at work or started work.

11 Q. But you would agree there were
12 certainly times when you arrived to work later
13 than you were scheduled to arrive to work; is
14 that correct?

15 A. Yes.

16 Q. And in the employee comment section
17 on the bottom of the first page there, the
18 handwriting there, is that your handwriting?

19 A. Yes.

20 Q. On the top of the next page on the
21 right side the acknowledgment section, is that
22 your signature there?

23 A. Yes.

24 Q. And the supervisor's signature here
25 looks like it was Jose Taveras; is that

1 EUROPE

2 correct?

3 A. Yes.

4 Q. Was there any other counseling that
5 Mr. Taveras gave you at that time about
6 arriving to work on time?

7 A. Not that I recall.

8 Q. Were you concerned after receiving
9 this record of discussion that your job could
10 be in jeopardy?

11 A. No.

12 Q. Why is that?

13 A. Because several other employees were
14 late all of the time and at this point I was
15 unaware of whether they had received any kind
16 of record of discussion or not, but people were
17 late daily. Jose was late almost daily, so it
18 didn't seem to be a huge issue.

19 Q. Did you have any idea whether Jose
20 had ever been counseled about time and
21 attendance?

22 A. At the time, no.

23 Q. Does that mean that now you do have
24 an idea as to whether he was?

25 A. Well, now that discovery has

1 EUROPE

2 happened for this case I'm aware that he did
3 not receive records of discussion for time and
4 attendance.

5 Q. But you would agree after the
6 April 2019 record of discussion was issued to
7 you that you had to improve on your time and
8 attendance; is that correct?

9 A. Yes.

10 Q. And did you, in fact, improve on it?

11 A. Yes.

12 Q. Why do you say that?

13 A. The amount of time that -- the
14 discrepancy between the time that I was
15 supposed to arrive on the schedule and the time
16 that I arrived shortened significantly.

17 Q. Did there continue to be times,
18 though, when you arrived more than ten minutes
19 late for the start of your scheduled shift?

20 A. Yes.

21 Q. How often did that happen after the
22 record of discussion was issued in April?

23 A. I don't recall, but there was a
24 second record of discussion that probably lists
25 it.

1 EUROPE

2 Q. And when was that second record of
3 discussion issued?

4 A. I don't recall the date on that
5 record of discussion.

6 Q. Okay.

7 MR. ZOLDESSY: I'm going to share
8 what has been marked as Defendants'
9 Exhibit 3, which is a two-page document,
10 Bates D12 and D13.

11 (Defendants' Exhibit 3, Record of
12 Discussion, Bates Stamped D000012 through
13 13, marked for identification.)

14 Q. Can you just take a minute to read
15 through this?

16 A. (Document review.)

17 Q. Ms. Europe, this document which has
18 been marked as Exhibit 3, what do you recognize
19 this to be?

20 A. The second record of discussion.

21 Q. Does this refresh your recollection
22 as to when it was issued?

23 A. Yes, let me scroll back up. I, for
24 some reason, don't see a date on this, but I
25 guess the times listed would suggest that it

1 EUROPE

2 was the end of May or the start of June, but I
3 don't see a date listed.

4 Oh, it looks like Rob signed it on
5 June 5, 2019, so...

6 Q. Any reason to believe that it was
7 not issued to you on or about June 5, 2019?

8 A. Yeah, I would say it was about
9 June 5, 2019.

10 Q. Okay. Is there anything in this
11 document that you believe is incorrect or
12 inaccurate?

13 A. With regard to what?

14 Q. Just the contents of it, the factual
15 content of it, is there anything you think is
16 inaccurate?

17 A. Yes, again, I would say that
18 managers did not clock in or out. For example,
19 there is no record of the time that I left the
20 club because we were not hourly employees.
21 These times reflect the time that I checked in
22 to the club at the front desk and not
23 necessarily the time that I arrived at work or
24 began work.

25 Q. All of the entries here, they all

1 EUROPE

2 have to do with arriving late to work, not
3 about what time you're leaving work; is that
4 correct?

5 A. Yes.

6 Q. And would you agree that on most, if
7 not all, of these dates which are listed here
8 that you arrived to work later than your
9 scheduled time?

10 A. Later than my scheduled time, maybe.
11 Checked in to the club later than my scheduled
12 term, certainly.

13 Q. On the second page of the document
14 under the employee comments section, is that
15 your handwriting there?

16 A. Yes.

17 Q. Is that your signature under the
18 employee signature line?

19 A. I believe so, I'm scrolling. Sorry.
20 Yes.

21 Q. And at the time you received this,
22 did you understand you needed to improve on
23 your time and attendance, and in particular get
24 into work on time?

25 A. I understood that I was receiving a

1 EUROPE

2 record of discussion for being late. And I
3 also understood that many other employees were
4 late frequently, so I needed to do what was
5 required to not receive another record of
6 discussion. But, again, other employees were
7 not reprimanded for the same behavior.

8 Q. Were you privy to the files of all
9 employees in the club that would indicate to
10 you whether or not they were reprimanded or
11 issued records of discussion for time and
12 attendance?

13 A. At that time, no.

14 Q. So what was the basis for your
15 statement on the second page here that other
16 employees are last without repercussions?

17 A. Because I would mention to other
18 people that I had been spoken to or that I got
19 a record of discussion once and I would learn
20 that they had not been reprimanded. Chris in
21 particular was late not infrequently and I
22 remember the times that I mentioned to him
23 that -- that Jose had spoken to me or
24 especially after my first ROD and the second
25 ROD, he seemed to believe at the time that it

1 EUROPE

2 be in jeopardy unless it was a biased, targeted
3 thing.

4 Q. Were there other discussions, verbal
5 discussions that Jose Taveras had with you at
6 or around this time about coming to work on
7 time?

8 A. No, I believe the second time we
9 discussed it after the first ROD was when I
10 received the second ROD.

11 Q. And how about after the second ROD?

12 A. Again, I don't believe so. I
13 believe it wasn't discussed again until I was
14 terminated.

15 Q. Other than Jose Taveras, were there
16 any other supervisory employees that ever
17 discussed time and attendance with you?

18 A. Not that I recall, but, again, it's
19 been quite some time.

20 Q. Did you ever reach out to people
21 services about issuance of either the
22 April 2019 ROD or the June 29 -- I'm sorry, the
23 June 2019 ROD to discuss, you know, why these
24 were being issued to you?

25 A. No. My understanding was that

1 EUROPE

2 people services would ultimately receive a copy
3 of any ROD that was issued. So they would see
4 my commentary. I didn't feel at the time it
5 necessary to contact them directly.

6 Q. And did people services ever reach
7 out to you about your comments on the June 2019
8 ROD?

9 A. No.

10 Q. So did you ever think to follow up
11 given that they never reached out to you about
12 it?

13 A. No.

14 Q. Any reason why not?

15 A. Again, my understanding was that
16 people services received a copy of all records
17 of discussion so my thought was that they would
18 see my commentary regardless of whether they
19 reached out to me about it or not.

20 Q. Did your punctuality improve after
21 issuance of the June 2019 ROD?

22 A. Maybe. I do not recall.

23 Q. Did you keep track of what time you
24 arrived at work each day?

25 A. No.

1 EUROPE

2 Q. So other than these check-in records
3 which Equinox maintained, are there any other
4 records you're aware of existing which would
5 indicate what time you were arriving at work
6 every day?

7 A. Not that I'm aware of, but, again,
8 these check-ins were a security measure, not a
9 way of tracking when employees arrived or left
10 work.

11 Q. Okay. But regardless of the
12 methodology used, you would still agree that
13 managers had to be at work within ten minutes
14 of their scheduled shift time; is that correct?

15 A. Absolutely.

16 Q. So at some point in time then after
17 the June 2019 record of discussion, was it
18 again brought to your attention that your time
19 and attendance and in particular your getting
20 to work on time was not satisfactory?

21 A. It was brought to my attention when
22 I received my final ROD.

23 Q. And when was that?

24 A. I believe in September of 2019.

25 Q. And was that the notice of your

1 EUROPE

2 termination?

3 A. Yes.

4 MR. ZOLDESSY: Let's just mark this
5 one as Defendants' Exhibit 4.

6 (Defendants' Exhibit 4, Record of
7 Involuntary Separation, Bates Stamped
8 D000014, marked for identification.)

9 Q. I just shared what's marked as
10 Defendants' Exhibit 4. It's a one-page
11 document which is Bates D14.

12 A. (Document review.)

13 Q. Ms. Europe, this document, once you
14 have had a chance to review, if you just let me
15 know and tell me what you recognize this to be.

16 A. Yes, it was my final ROD.

17 Q. And this was issued September 24,
18 2019; is that correct?

19 A. Yes.

20 Q. And the signatures on there, it
21 looks like there is a manager's signature, Rob
22 Avellan.

23 What was Rob's position at the time?

24 A. Rob took over Josh Harrison's
25 position after Josh resigned.

1 EUROPE

2 Again, it was a security measure. It was
3 frequent that you would show up as an employee
4 of the club and perhaps not check in because
5 you were an employee of the club and the front
6 desk would be swamped and they would say, okay,
7 hi, good to see you and go to work.

8 Q. Was it the expectation that you
9 would check in when you arrived at work for the
10 day?

11 A. Yes, the expectation was that every
12 person who entered the building would check in
13 whether they were there for work or not.

14 Q. And the place where you would check
15 in, where was that in relation to the entrance
16 to the club?

17 A. There was the front doors to the
18 club, and then immediately past the front doors
19 on the right, there were two elevators that
20 went up to my office and Chris' office and
21 maybe about 20 feet past the front door was the
22 front desk. And behind the front desk was
23 Jose's office and the membership advisor's
24 office.

25 Q. The hourly employees who reported to

1 EUROPE

2 Q. Other than the comments that you
3 wrote in the two RODs that we just looked at,
4 the June 2019 ROD and then the September record
5 of involuntary separation, did you ever put in
6 writing to Equinox that you believed that you
7 were being treated unfairly?

8 A. Yes, I reached out to Paul Kwon
9 after I was terminated with some of the dates
10 and times that Jose arrived late and mentioned
11 that they should look into Jose's time and
12 attendance because I had just been terminated
13 for mine and Jose was late as frequently.

14 Q. Paul Kwon -- I should have asked you
15 earlier. I see his name was on the record of
16 involuntary separation.

17 Who was Paul Kwon?

18 A. To be honest, I don't remember if I
19 met Paul Kwon at any point prior -- well, I
20 have never met Paul Kwon. So I believe he
21 worked in human resources, but to be honest
22 with you, I don't know. I just know that he
23 was the person that I was put in contact with
24 after I was terminated when I wanted to reach
25 out to human resources.

1 EUROPE

2 Q. Do you know if Paul reported to
3 Stephanie Herrmann?

4 A. I believe Stephanie -- I thought
5 Stephanie had left the company at the time that
6 I was terminated, but I'm not certain. I don't
7 think he answered to her, but there is no way
8 for me to know.

9 Q. Who put you in touch with Paul after
10 you were terminated?

11 A. I reached out to Equinox directly to
12 find out how I would contact human resources.
13 I believe I called. I'm not certain, but I
14 believe I called.

15 And I believe Paul reached out to me
16 after I said I needed to speak with someone
17 from human resources, but I'm a little fuzzy on
18 that.

19 Q. No problem. So other than the two
20 RODs, meaning the June and the September RODs,
21 the September being the record of involuntary
22 separation and the e-mail you sent to Paul Kwon
23 after you were terminated in September of 2019,
24 did you ever put in writing, and I would
25 include an e-mail or electronic communication,

1 EUROPE

2 to Equinox that you believed you were being
3 treated unfairly or that there was bias?

4 A. Aside from what is written in these
5 RODs, no, I never put it in writing. It seemed
6 to be the sort of thing that would put a target
7 on my back, which I believed there already was.

8 Q. Why do you believe there was already
9 a target on your back?

10 A. Because I was the only person being
11 reprimanded for time and attendance issues,
12 usually after I had gone to human resources,
13 people services, for some other purpose.

14 Q. Why did you believe that there was a
15 target being put on your back, though? Why did
16 you believe that they would target you?

17 A. I was the only person going to
18 people services frequently about things
19 occurring in the club. When things occurred
20 negatively at the club that reflected directly
21 on Jose Taveras' leadership, so they would
22 immediately contact him about what was
23 happening in the club.

24 In turn, Jose Taveras would write me
25 and me exclusively up for time and attendance

1 EUROPE

2 directly it was regarding one of the Sabrina
3 incidents, but prior to that I had certainly
4 gone to other supervisors about the lack of
5 support that I was receiving at the club, about
6 the fact that Jose was often not at the club.

7 You know, I mentioned those things
8 to other people even though I didn't take it to
9 human resources because it didn't seem to need
10 to be escalated at that point.

11 Q. Did you consider complaining about
12 lack of resources or Jose's attendance to be
13 protected activity?

14 A. No, but I do believe that that is
15 the sort of thing that would put a target on my
16 back if it ultimately goes back to Jose that
17 Röbynn Europe made a complaint about when he
18 arrived, when he leaves, whether he is
19 supporting her position, whether he is
20 supporting her department.

21 Q. So what's the protected activity
22 here you're claiming that you went to people
23 services with that you believe put a target on
24 your back?

25 A. I went to people services regarding

EUROPE

1
2 a client, Mark Dorfman, who had requested a
3 white male trainer and I went to -- I contacted
4 Jose that night about that incident to let him
5 know that I would not be pairing that member
6 with a trainer because that would be
7 discrimination against my staff, which is
8 illegal.

9 And he requested that I send him an
10 e-mail in writing so that he would have an --
11 he would have a record of what occurred and
12 what I was saying occurred. And I did send him
13 that e-mail the next day, but I also contacted
14 people services about the incident.

15 Because aside from the fact that it
16 would be discrimination against my staff if I
17 paired them with clients based on race, it was
18 dehumanizing and demeaning to know that I
19 worked in a place where I could show up to
20 work, do my job well and still have to deal
21 with a membership advisor calling me in my
22 office and telling me that I need to pair
23 trainers with clients based on race.

24 Additionally, to find out that after
25 I brought this up with Jose and contacted

1 EUROPE

2 people services about it, Jose contacted Chris
3 Maltman and asked him to pair this client with
4 a trainer anyway was also problematic. And I
5 contacted the people services again about that.
6 That's a protected activity.

7 I shouldn't be retaliated against
8 for contacting people services to let them know
9 that there are discriminatory, racist practices
10 happening in my location that are allowed by my
11 direct supervisor and, in fact, encouraged.

12 Q. When did this all happen with the
13 communications with people services about that
14 client request that you perceived as being
15 discriminatory?

16 A. I don't recall the exact date, but I
17 do know that that is one of the documents that
18 you have, so it would be the dates on those
19 e-mails.

20 Q. Was it after you received the April
21 record of discussion?

22 A. It was after I received the April
23 record of discussion, but I believe it was a
24 few days before I received the second record of
25 discussion.

1 EUROPE

2 that I did not believe were being addressed
3 adequately.

4 Q. Did people services take action in
5 response to your escalating the issue about the
6 client request you perceived as being
7 discriminatory?

8 A. As I recall, they did. People
9 services was typically pretty good about
10 handling things in a timely fashion.

11 Q. Were there employees who were
12 disciplined based on what happened?

13 A. At the time I was unaware of whether
14 anyone was disciplined, but since discovery has
15 happened for this case, I'm aware that people
16 were disciplined.

17 Q. Who are you aware of being
18 disciplined?

19 A. Jose was disciplined and Cori
20 Faermann was disciplined.

21 Q. So as you sit here today, would you
22 agree that once people services learned about
23 what happened in June it acted appropriately?

24 A. People services regularly acted
25 appropriately. That was entirely separate from

1 EUROPE

2 what was occurring at the club level.

3 Q. So to go back to my question, with
4 respect to the complaint you escalated, the
5 issue you escalated having to do with the
6 customer request, would you agree as you sit
7 here today that people services handled it
8 appropriately?

9 A. I would say people services did what
10 they were able to do.

11 Q. Well, they disciplined the general
12 manager of the club; is that correct?

13 A. Sure. That doesn't take care of the
14 fact that those things were occurring at
15 East 92nd Street in general, though.

16 Q. You have testified that you believed
17 this issue with the customer was protected
18 activity and you believed that the concerns you
19 raised about Chris' comments towards Sabrina
20 McGeary were protected activity.

21 Were there any concerns you raised
22 with people services prior to either of those
23 incidents that you believe to be protected
24 activity?

25 A. I believe my request for

1 EUROPE

2 accommodation was also protected activity.

3 Q. And when did that first occur?

4 A. I believe it was in -- sorry, I have
5 the hiccups -- I believe it was around June.
6 It would have been around May or June of 2019,
7 I believe.

8 Q. So would you agree that at the time
9 you first engaged in protected activity, you
10 had already been issued at least one record of
11 discussion for time and attendance?

12 A. Yes.

13 MR. ZOLDESSY: Off the record for a
14 minute.

15 (Discussion off the record.)

16 Q. Ms. Europe, other than what we have
17 already talked about, are there any other
18 communications that you had with people
19 services that you considered to be protected
20 activity?

21 A. I contacted people services about a
22 managers' dinner that we were told was
23 mandatory that I did not want to attend because
24 of my disability and that my therapist
25 recommend that I not attend because of my

1 EUROPE

2 accommodations. I did contact them three times
3 regarding Sabrina McGeary. I did contact them
4 about the client Mark Dorfman. As I recall
5 there weren't other times that I contacted
6 them, but I'm not a hundred percent certain on
7 that, but those are the ones I can recall right
8 now.

9 Q. Of all the ones you can recall, you
10 would agree, as you sit here today, that people
11 services took proper action in response to all
12 of them; is that correct?

13 A. People services usually took
14 appropriate action, but, again, that was very
15 different than the treatment and experience I
16 had at the club level.

17 Q. If you had a different experience at
18 the club level, couldn't you have escalated
19 that experience to people services with an
20 expectation they would have taken proper
21 action?

22 A. Isn't that what we just said I did?

23 Q. I'm asking you.

24 A. I reached out to people services
25 when I had issues with what was happening at

1 EUROPE

2 either hitting on me or involving me in him
3 speaking about members at the club.

4 Q. Did Chris ever hit on you in your
5 opinion?

6 A. Not that I recall. I think I shut
7 that down pretty quickly.

8 Q. Well, if it never happened, how did
9 you shut it down?

10 A. I had already been warned that that
11 was going to occur, so I was very clear based
12 on my interactions with him that we had a
13 professional relationship and that I wasn't --
14 I wasn't going to entertain that sort of
15 interaction.

16 Q. Your complaint also alleges that you
17 believe you were discriminated against based on
18 your sex; is that correct?

19 A. Yes.

20 Q. And what's the basis for this claim?

21 A. I believe that the evaluation of my
22 communication with my staff was unjust and it
23 is based on a -- you know, a pretty common
24 thing where people expect women to be somewhat
25 docile, friendly, jovial all the time and

EUROPE

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2 because I was performing my duties as a manager
3 which were to lead the department, not to be
4 friendly and loved by everyone, yes, I believe
5 that that is discrimination based on my --
6 based on my sex.

7 Q. Your sex being the fact that you are
8 a woman?

9 A. Yes.

10 Q. And there are plenty of other women
11 in management roles at Equinox, weren't there?

12 A. Sure.

13 Q. Do you believe that all women were
14 being subjected to disparate treatment based on
15 their gender or do you believe it was you
16 specifically?

17 A. There's no way for me to know. I
18 did not frequently ask other women about their
19 experiences at Equinox.

20 What I do know is that it came up
21 fairly regularly that I needed to put a little
22 more sugar on the way that I interacted with my
23 staff, and I do not believe that this would
24 have been the case if I had been male.

25 Jose certainly never sugarcoated

1 EUROPE

2 anything he said to me, but I was expected to
3 be the friendliest, most well-liked manager
4 instead of doing my job, which was to lead the
5 department.

6 Q. Did you ever escalate to people
7 services that you believed you were being
8 subjected to discrimination based on your sex?

9 A. No.

10 Q. Did you ever escalate to people
11 services that you believed you were being
12 subjected to discrimination based on your race?

13 A. No. Again, with both of those
14 things I believe that going to people services
15 without something that was a black-and-white
16 fact would put a target on my back.

17 Q. Do the trainers and, you know, other
18 staff date one other from time to time?

19 A. Sure.

20 Q. Were there trainers -- to the best
21 of your knowledge during your employment, were
22 there trainers in your club who were dating
23 each other or other staff there?

24 A. Yes.

25 Q. And, you know, would there be any

1 EUROPE

2 raise any other concerns to you about
3 Mr. Maltman?

4 A. Which incident are you referring to?

5 Q. Well, you allege that she made
6 comments about -- withdrawn.

7 You allege that Mr. Maltman made
8 comments to her which you escalated to people
9 services, correct?

10 A. Yes.

11 Q. And I believe you testified that at
12 least, you know, as you sit here now you know
13 that people services, in turn, disciplined
14 Mr. Maltman for this; is this correct?

15 A. Ah. Yes.

16 Q. After -- and is it fair to say this
17 occurred in or around June of 2019?

18 A. Yes.

19 Q. From June of 2019 until your
20 employment with Equinox ended in September of
21 2019, did Ms. McGeary come to you with any
22 other concerns about Mr. Maltman?

23 A. No. She simply asked that I would
24 be present for her meetings with him because
25 she didn't feel comfortable with him.

1 EUROPE

2 Q. And were you, in fact, present for
3 subsequent meetings that she had with
4 Mr. Maltman?

5 A. I believe I was present for a couple
6 of meetings that she had with Mr. Maltman. It
7 wasn't always a possibility based on schedules,
8 but I believe I was present for a few.

9 Q. And did you ever witness Mr. Maltman
10 acting or stating anything to Ms. McGeary that
11 was inappropriate after that June 2019
12 incident?

13 A. No, I believe that's why she asked
14 for my presence.

15 Q. So as you sit here today, is there
16 anything you believe that Equinox should have
17 done differently in response to receiving your
18 report in June of 2019 pertaining to
19 Mr. Maltman and Ms. McGeary?

20 A. Anything that I believe they should
21 have done differently? My opinion?

22 Q. Yes.

23 A. Yes, I think that multiple
24 complaints about inappropriate comments,
25 calling someone autistic, commenting on their

1 EUROPE

2 Q. When did that happen?

3 A. I don't remember the exact date
4 but -- yeah, I'm so sorry. I don't remember
5 the exact date. I believe there is an e-mail
6 in -- that has been submitted regarding that.

7 Q. The incident that you found to be
8 inappropriate with the coffee shop, just to
9 confirm, I believe you might have answered this
10 earlier, you never escalated this to people
11 services, correct?

12 A. No.

13 Q. And you never escalated it to any
14 other supervisor; is that correct?

15 A. Correct.

16 Q. Your complaint also alleges
17 discrimination based on a disability; is that
18 correct?

19 A. Yes.

20 Q. And what disability is it referring
21 to?

22 A. An eating disorder.

23 Q. What eating disorder?

24 A. Bulimia.

25 Q. And did you ever notify Equinox that

1 EUROPE

2 you were bulimic?

3 A. Yes. I contacted Stephanie Herrmann
4 directly.

5 Q. And was that the discussion about
6 the managers' dinner that you referenced
7 earlier?

8 A. Yes.

9 Q. Other than Stephanie Herrmann, did
10 you ever advise any other Equinox manager or
11 representative that you were bulimic?

12 A. Well, I e-mailed Michael Caporusso
13 about it.

14 Q. When was that?

15 A. When I was requesting a schedule
16 accommodation.

17 Q. What month did that occur in?

18 A. I believe it was in June of 2019.
19 It was perhaps July. I honestly don't remember
20 the exact date that I contacted either of them,
21 but it was the dates of the e-mails that were
22 submitted.

23 Q. And I believe you testified in both
24 instances, both the managers' dinner and the
25 scheduling, that these were both accommodations

1 EUROPE

2 that were granted; is that correct?

3 A. Yes.

4 Q. So for what reason do you believe
5 that you were discriminated against based on a
6 disability?

7 A. My issues were not usually with
8 people services or how things were handled at
9 that level. My issues were with how things
10 occurred at the club level. Not attending the
11 managers' dinner and not explaining to Jose why
12 I wasn't attending the managers' dinner or
13 pretending I was going to attend the managers'
14 dinner meant that I was treated rudely and
15 improperly by Jose.

16 When the scheduled accommodation was
17 made such that I would be the early shift and
18 Chris Maltman would be the late shift, I had to
19 deal with daily commentary from Chris of how
20 much of a burden it was that we had to switch
21 shifts, and he thought it was crazy that he had
22 to stay late.

23 In addition to the fact that, you
24 know, Jose and Chris typically, if I made any
25 kind of request, acted like I was putting some

1 EUROPE

2 kind of burden on them.

3 Q. To the best of your knowledge, did
4 Jose Taveras know that you had an eating
5 disorder?

6 A. No, but it wasn't about whether he
7 knew that I had an eating disorder. It was
8 about the fact that I went to people services
9 outside of him and made a request that was
10 granted without -- without him.

11 Q. To the best of your knowledge, was
12 Mr. Taveras familiar with the discussion or the
13 substance of the discussion that you had with
14 people services about the managers' dinner?

15 A. I honestly don't know.

16 Q. Would you agree that if he was not
17 familiar with it that he could not have been
18 discriminating against you based on a
19 disability?

20 MS. LIEDERMAN: Objection.

21 You can answer.

22 A. No, I would not say that because the
23 reality is you can discriminate against
24 someone -- first of all, you can discriminate
25 against someone and have their request granted

1 EUROPE

2 not suggesting that he needed to know that I
3 had a disability or what the disability is. I
4 am alleging that I requested accommodations,
5 was granted those accommodations, and was
6 discriminated against because I requested and
7 was granted those accommodations.

8 Q. And in what way do you believe that
9 he discriminated against you because you
10 requested and were granted an accommodation for
11 the managers' dinner?

12 MS. LIEDERMAN: Objection.

13 You can answer.

14 A. The combination of communication.
15 The fact that I continued to be targeted for
16 time and attendance in a way that other club
17 employees were not targeted, you know, I can't
18 tell you that I would say any one thing points
19 to my experience of discrimination. It was the
20 cumulative experience and treatment I received
21 over the entirety of my time at Equinox.

22 Q. To the best of your knowledge, was
23 Chris Maltman aware of the fact that you had an
24 eating disorder?

25 A. To the best of my knowledge, no.

1 EUROPE

2 MR. ZOLDESSY: I defer to the group.
3 I could easily be persuaded either way.
4 Do you want to take a break now?

5 MS. LIEDERMAN: Yeah, if you're not
6 in the middle of a line of questioning, I
7 think it would be appropriate.

8 MR. ZOLDESSY: Let me just finish a
9 couple more things and we can take a break
10 for however long if everyone wants to take
11 a break.

12 MS. LIEDERMAN: Okay.

13 BY MR. ZOLDESSY:

14 Q. Would you agree, Ms. Europe, that
15 you -- you are of the opinion Mr. Taveras
16 discriminated against you because you made a
17 request for an accommodation pertaining to the
18 dinner even though he didn't know what exactly
19 your accommodation request was?

20 A. Well, he knew what my accommodation
21 request was, the accommodation request was to
22 not attend the dinner.

23 Q. But he didn't know the reason for
24 the request; is that correct?

25 A. Correct.

1 EUROPE

2 Q. And would you agree that you're of
3 the opinion that Mr. Maltman discriminated
4 against you for making a request pertaining to
5 the schedule even though you don't know whether
6 Mr. Maltman knew of the reason for the
7 scheduling request?

8 MS. LIEDERMAN: Objection.

9 You can answer.

10 A. That sounds like an accurate
11 statement.

12 MR. ZOLDESSY: Okay. Let's go off
13 the record for a minute.

14 (Luncheon recess taken at 1:09 a.m.)
15
16
17
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25

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2 A. I believe that as Jose's supervisor,
3 it was his job to, A, make sure that people at
4 the club were being reprimanded equally and for
5 similar behavior, and also to make sure that
6 people that I work with, Jose, Chris, other
7 managers, were acting appropriately.

8 Q. Do you know whether Jose Taveras
9 spoke with Adam Gecht about the April 15, 2019,
10 ROD before it was issued to you?

11 A. I do not know.

12 Q. Do you know whether Adam Gecht saw
13 it before it was issued to you?

14 A. I do not know.

15 Q. Do you know if Adam Gecht had any
16 role in drafting the April 2019 ROD?

17 A. I do not know. I only know that the
18 chain of command would suggest that he had to
19 go to Adam before he could issue an ROD.

20 Q. What's the basis for that statement?

21 A. We always had to go to our superiors
22 before we could reprimand anyone. So in the
23 same way that I could not reprimand my staff or
24 Chris without going to Jose first, Jose would
25 have had to go to someone above him before he

1 EUROPE

2 names at any point during my training, so...

3 Q. Did they ever specifically tell you
4 that a general manager did not have discretion
5 to issue an ROD on his or her own?

6 A. No, but they did say that managers
7 could not issue RODs without speaking to a
8 supervisor and people services first. I
9 assumed that that also applied to general
10 managers.

11 Q. And would you agree that Adam Gecht
12 is not a signatory on the June 15, '20 -- I'm
13 sorry, the June 5, 2019, ROD either; is that
14 correct?

15 A. Yes.

16 Q. And are you aware of any discussions
17 that Jose Taveras had with Adam Gecht before
18 the June 2019 ROD was issued to you?

19 A. I'm not certain on the date of it,
20 but I do know that after I mentioned that other
21 employees were late frequently an e-mail was
22 sent to Jose about his time and attendance, but
23 I don't recall the date on that, I'm so sorry.

24 Q. Do you know whether Adam Gecht
25 reviewed the June 2019 ROD before it was issued

1 EUROPE

2 to you?

3 A. Factually, no. But as a matter of
4 protocol, he certainly would have had to see
5 it.

6 Q. And that's just based on your
7 understanding of what the protocol was from a
8 discussion that you had with people services
9 about what you, as a manager, could do on your
10 own?

11 A. Yes.

12 Q. Do you know whether Adam Gecht
13 approved the decision to terminate your
14 employment?

15 A. I do not know.

16 Q. So are you aware of any actual facts
17 that Adam Gecht had any role in either
18 disciplining you or terminating your
19 employment?

20 A. Not related to that directly. I am
21 aware of the fact that I went to Adam Gecht on
22 many occasions with regard to Jose's behavior,
23 his absences from the club, his lateness to the
24 club, his interactions with me, his inability
25 to perform duties in a timely manner, and Adam

1 EUROPE

2 initially said I should speak to Jose about it
3 directly and then said that if Jose could not
4 perform his duties in a timely manner and
5 continued to act in this way that I should go
6 to him.

7 So I did go to Adam a number of
8 times about my interactions with Jose.

9 Q. And would you agree, based on what
10 you've seen in discovery, that Adam Gecht took
11 part on at least one occasion of disciplining
12 Jose Taveras for his performance?

13 A. No, I would not agree with that. An
14 informal e-mail is not discipline.

15 Q. Are you aware of Jose Taveras ever
16 being disciplined?

17 A. No, not for time and attendance.

18 Q. I didn't say for time and
19 attendance, just in general.

20 A. Ah. I'm aware of him being
21 disciplined by people services for his
22 involvement in the Mark Dorfman incident.

23 Q. Do you know whether Adam Gecht was
24 part of that decision making for issuing the
25 discipline for the Mark Dorfman situation?

1 EUROPE

2 A. Yes.

3 Q. I'm just going to go back to share
4 the complaint again.

5 Ms. Europe, if I could just direct
6 you to paragraph 24 of the complaint, which is
7 on page 5 of the document.

8 A. The paragraph that begins "what is"?

9 Q. One up from that, 24. 24 through 26
10 it starts, "As another example, one of the
11 trainers, Martin."

12 A. Yeah.

13 Q. So these allegations in paragraphs
14 24, 25, 26 about Martin "M." Melendez and
15 comments that you are alleging that Mr. Maltman
16 made, when did this occur?

17 A. It occurred frequently, so I
18 couldn't give you a date or an approximate
19 date.

20 Q. It occurred frequently that
21 Mr. Maltman would refer to Martin Melendez in
22 what you perceived to be inappropriate ways?

23 A. Yes.

24 Q. Did you ever escalate this issue to
25 your supervisor?

1 EUROPE

2 A. No, these issues usually happened in
3 the presence of Chris Maltman and myself. It
4 was rarely with others present, with the
5 exception of the conversation where he and Jose
6 were poking fun at Michael Lantino's
7 transgender partner.

8 Q. Did you ever tell Mr. Maltman that
9 his comments to Melendez were inappropriate?

10 A. Yes.

11 Q. And what was his response?

12 A. He usually kind of took it very
13 lightly. For example, once I told him when he
14 was making fun of the length of Martin's
15 shorts, again, it was just Chris and I in the
16 office, I told him, you know, he wouldn't
17 complain if someone who was female on the staff
18 was wearing shorts that were that length and
19 he's not indecently exposed so let it go.

20 And at that time and many other
21 times Chris said, yeah, but Martin is just a
22 little bitch. So, you know, it was
23 conversations like that often.

24 Q. Did you ever tell Mr. Taveras about
25 those comments?

1 EUROPE

2 A. No, those comments were never said
3 to Martin as I recall. They were said to me in
4 our office and sometimes when we were on the
5 gym floor, but it was just the two of us.

6 Q. Did Mr. Maltman make comments
7 directly to Martin that you considered to be
8 inappropriate?

9 A. There were times when I felt the way
10 that he interacted with Martin "M." Melendez
11 were inappropriate interactions and certainly
12 could have been more respectful.

13 I did take issue with him
14 consistently sending Skyy and Martin out for
15 food for the meeting because he never asked any
16 other trainers to do so. Sometimes other
17 trainers might volunteer, but he never directly
18 went to other trainers to ask them to do that
19 task, so I certainly understood why Martin was
20 upset by that. Yeah.

21 Q. Did Martin ever come to you then
22 specifically to complain about Mr. Maltman?

23 A. Yes, on a number of occasions.

24 Q. And what did you do with those
25 complaints?

1 EUROPE

2 A. The complaints were rarely that an
3 incident had occurred and that it was something
4 I needed to report to people services.
5 Typically, it was that Martin felt that people
6 were speaking to him disrespectfully. Jose and
7 Chris Maltman spoke to him disrespectfully and
8 really couldn't find it in themselves to speak
9 to him like he was an adult human.

10 Q. But you never raised any of Martin's
11 complaints to people services; is that correct?

12 A. Correct.

13 Q. Wouldn't that be your role to do
14 that as a supervisor of the department?

15 A. If it seemed that there was a
16 specific incident, for example, when there was
17 a specific incident where Chris Maltman asked
18 Sabrina if she was autistic, you know, if there
19 was a specific incident, of course, I would go
20 to people services. But it's hard to go to
21 people services and say my employee feels that
22 these conversations are disrespectful and not
23 have anything to point to.

24 I did, however, recommend that
25 Martin either speak to Jose or people services

1 EUROPE

2 Cori first called you with the member there
3 that you heard the member talk?

4 A. I heard words come out of the
5 member's mouth. I would not say that I heard
6 the member a hundred percent clearly, but she
7 asked him a clear question, got a brief
8 response, and then reiterated that that was the
9 response.

10 Q. Were you part of any of the
11 investigative interviews that were conducted
12 about this incident?

13 A. Not outside of people services
14 asking me specifically what happened on that
15 night, but they didn't ask me about anything
16 else.

17 Q. Up until you received the discovery
18 in this case is it fair to say you were not
19 aware of what discipline was issued as a result
20 of this incident?

21 A. Yes.

22 Q. Is there anyone else you believe
23 should have been disciplined who was not
24 disciplined because of that incident?

25 A. Sitting in this seat right now, I

EUROPE

1
2 don't know. And the reason I don't know is
3 because I don't know exactly what words were
4 relayed to Chris Maltman when he was asked to
5 take care of this member. If he was asked to
6 take care of a member whether it was because
7 Jose thought I wasn't providing good customer
8 service or thought I wasn't doing my job then,
9 of course, Chris should have paired that
10 member.

11 If any part of what I complained
12 about initially was related to Chris then,
13 yeah, it's a problem if he didn't resist or go
14 to people services with what the request was.
15 But since I don't know how that responsibility
16 was relayed to him, I would say that everyone
17 that I am aware of that should be disciplined
18 was disciplined.

19 Q. Just scrolling down a bit to page 12
20 of the document, paragraph 65.

21 A. Paragraph 65.

22 Q. Paragraph 65 alleges that at least
23 two other former Equinox employees departed the
24 company during the period of your employment
25 due to race-based hostile work environment at

1 EUROPE

2 work based on race and to have that person act
3 as though they cared, and then ask my white
4 subordinate to take care of this.

5 I mean, I was really -- I was
6 appalled and disgusted and hurt, and it was
7 really dehumanizing and I feel -- yes, it's
8 upsetting to even talk about it.

9 Q. And did this dehumanizing experience
10 and/or others like it at Equinox trigger your
11 eating disorder as well?

12 A. Yes, it increased how often I binged
13 and purged, whether it was bigger binges at
14 night or more frequent binges and purges during
15 the day, especially if something had just
16 occurred, it's pretty likely that I was going
17 to binge immediately afterwards.

18 MS. LIEDERMAN: Okay. Thanks no
19 further questions.

20 MR. ZOLDESSY: I have just a few
21 follow up. It will be brief.

22 FURTHER EXAMINATION

23 BY MR. ZOLDESSY:

24 Q. Ms. Europe, with respect to the
25 coffee shop incident, if I understand

1 EUROPE

2 correctly, you testified earlier that you never
3 reported this to people services or any of your
4 supervisors; is that correct?

5 A. Yes.

6 Q. I'm sorry is that a "yes"?

7 A. It's a yes.

8 Q. So is there any way that anyone
9 above you at Equinox would have knowledge about
10 that incident if you didn't tell them about it?

11 A. Not necessarily. I mean, I
12 certainly discussed it with Raj because Raj and
13 I discussed our day-to-day experiences pretty
14 regularly. And I know that Raj did go to
15 people services about his negative interactions
16 with Chris Maltman, but as far as me contacting
17 people services about that particular incident,
18 no, they wouldn't have heard it from me. I
19 don't know if they heard it from anyone else.

20 Q. But would you agree that if there is
21 anyone who was in a position to report that to
22 people services it would have been you; is that
23 correct?

24 A. Yes.

25 Q. Bear with me for one second.

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO. 20-cv-7787

-----X

4 ROBYNN EUROPE,

5 Plaintiff,

6 vs.

7 EQUINOX HOLDINGS, INC.
8 d/b/a EQUINOX FITNESS CLUB,
9 EQUINOX EAST 92nd STREET, INC.,
10 JOSE TAVERAS, individually,
11 CHRISTOPHER MALTMAN, individually,
12 and ADAM GECHT, individually,
13 Defendants.

-----X

13 VOLUME II

14
15
16 August 26, 2021

17 9:04 a.m.

18
19 Deposition of ROBYNN EUROPE, held
20 via Virtual Zoom, New York, New York,
21 pursuant to Court Order, before Wendy D.
22 Boskind, a Registered Professional
23 Reporter and Notary Public of the State
24 of New York.
25

1 Europe

2 times.

3 A. Yes.

4 Q. The coffee shop incident that
5 you testified to, with respect to Chris
6 Maltman speaking to the barista, did you
7 report that coffee shop incident to Adam
8 Gecht?

9 A. No.

10 Q. At your deposition, you
11 testified that Mr. Maltman commented on
12 the appearance of members at the gym.

13 Do you recall that?

14 A. Yes.

15 Q. Did you report Mr. Maltman's
16 comments to Adam Gecht?

17 A. No.

18 Q. At your deposition, you
19 testified on how Mr. Maltman commented on
20 the appearance of a Trans woman.

21 Did you report Mr. Maltman's
22 comment to Adam Gecht?

23 A. No.

24 Q. Did you ever speak to Adam
25 Gecht about you not agreeing with

1 Europe

2 floor, and Adam specifically interacted
3 with Jose, whose office was on the first
4 floor.

5 Q. When you worked at the club,
6 did you have Adam Gecht's cellphone
7 number?

8 A. Oh, good question.

9 I don't remember. Maybe? I
10 think so?

11 Q. Do you recall ever speaking
12 to Adam on the telephone?

13 A. Uh -- yes, I think I spoke to
14 him on my office phone -- yes -- I'm
15 going to go with yes on that, but I'm not
16 sure.

17 Q. Did you speak to Adam on the
18 club floor?

19 A. Yes.

20 Q. Did you ever have one-on-one
21 communications with Adam?

22 A. Yes.

23 Q. How would you describe your
24 professional relationship with Adam
25 Gecht, when you were working at the club?

1 Europe

2 A. I found Adam to be the --
3 hmm -- that's a tough question -- um --
4 I -- it was a professional
5 relationship -- um -- I wouldn't say that
6 we were friends, but we didn't butt heads
7 at all.

8 He was, as I recall, a good
9 resource to go to, with regards to
10 navigating my own position within the
11 club.

12 As I recall, his advice was,
13 typically, the sort of advice that I
14 would probably, you know, give anyone who
15 asked me for advice, which was: Do your
16 job, advocate for yourself, make sure
17 that your job gets done, so you don't
18 have to worry about too much else.

19 Q. That's good advice.

20 You testified that Jose
21 Taveras was the first person who brought
22 to your attention that your time and
23 attendance was struggling, and you needed
24 to improve your punctuality.

25 After you received a ROD, for

1 Europe

2 Q. Did you ever complain to Adam
3 Gecht that you believed you were being
4 discriminated based on your sex?

5 A. I complained to Adam Gecht
6 that I thought that going to H.R. with
7 some frequency would be a reason that I
8 might have been targeted, particularly
9 following my second ROD. So, I mean, I
10 guess in a way.

11 Q. Well, let's break that
12 question down a bit.

13 I heard your testimony, that
14 you told Adam Gecht that you went to H.R.
15 often and you believed that that was the
16 reason why you were issued an ROD.

17 Did I articulate that
18 properly?

19 A. Yes.

20 Q. Now I'm going to ask you my
21 question again.

22 Did you ever go to Adam Gecht
23 and tell him that you were being
24 discriminated based on your sex, the fact
25 that you are a female?

1 Europe

2 A. No, not in those words.

3 Q. Did you ever go to Adam Gecht
4 and tell him that you believed you were
5 being discriminated based on your race?

6 A. Again, not in those words.

7 Q. Same question, but did you
8 ever complain to Adam Gecht that you
9 believed you were being discriminated
10 based on your disability?

11 A. I don't recall discussing
12 that with Adam at all.

13 Q. And, as you sit here today,
14 is it your testimony that Adam Gecht has
15 been named in this lawsuit because he
16 supervises Jose Taveras?

17 MS. LIEDERMAN: Objection.
18 You can answer.

19 A. That is not the only reason,
20 but it is, certainly, one of the reasons.

21 Q. What's the other reason why
22 Adam Gecht is named as a Defendant in
23 this case?

24 A. I did mention to Adam that I
25 was concerned that I was being written up